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## C. REMARKS

### *Status of Claims*

Claims 1-37 remain pending in the application. Claim 40 is canceled. Claims 1-3, 13-14, 16-18, 24, 28-33, 35, and 36 are amended.

### *35 USC § 103(a)*

#### **Claims 1-37**

Claims 1-37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Greene (US Patent 5,568,541) in view of Truchon et al. (U.S. Patent 6,144,723) or Albers et al. (U.S. Patent 6,636,504). [Office Action dated 3/1/2005, p. 2] Applicants amend the claims and traverse the rejection in view of the amended claims. Regardless of whether the Examiner's previous assertions as to obviousness were correct, as amended claims 1-37 are not obvious under Greene in view of Truchon et al. or Albers et al. and Applicants respectfully request withdrawal of the rejection and allowance of the claims.

#### **Claims 1, 16, and 31 are not obvious under Greene in view of Truchon or Albers**

Independent method claim 1, which is representative of independent system claim 16 and independent computer program product claim 31, with regard to similarly recited subject matter and rejection, reads as follows:

1. (Currently Amended) A method for billing for a call, said method comprising:  
responsive to detecting a call originated by a caller to a destination line,  
accessing a caller profile for said caller, wherein said caller profile specifies a  
limit for automatic acceptance of a tariff payment request for said call;  
responsive to detecting a callee answer said call at said destination line,  
accessing a callee profile for said callee, wherein said callee profile designates a  
first cost for access to said callee during a current time period and a second cost  
for access by said caller to said callee;

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initiating a request to bill said [a] caller a tariff for said [a] call, wherein said tariff is calculated from said first cost and said second cost in said callee profile wherein said caller originates said call;  
responsive to said caller limit for automatic acceptance exceeding or matching said tariff, automatically initiating negotiation of payment of said tariff;  
responsive to said tariff exceeding said limit for automatic acceptance,  
prompting said caller to accept payment of said tariff to initiate negotiation of payment of said tariff to receive access to a destination line during said call; and  
responsive to negotiating said payment of said tariff from a caller account provided specified in said caller profile to a callee account provider specified in said callee profile, connecting said caller with said destination line, such that said caller pays for access to said destination line.

Regarding claim 1, the Examiner states the following grounds of rejection

Regarding claim 1, Greene (see Figs. 1-3, col. 2, lines 1-25, 50-65, col. 3, lines 50-64, claims 1-7) disclose a method for billing a call by advising the calling party pay a surcharge to the called party such that the caller pays for access substantially as claimed. The differences between the above and the claimed invention is the use of specific term negotiation. It is noted that it is believed that advising the calling party of charges any requiring the calling party to accept charges are the functional equivalent of the claim limitations. Truchon et al (Figs 2-4c and col. 6, lines 59-68) or Albers et al (Fig. 7 and col. 5, lines 55-65) show a billing negotiation process for telephone voice transactions. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Greene because the billing means are conventional functional equivalents. [Office Action dated 3/1/2005, pp. 2-3]

Claims 16 is rejected by the Examiner on similar grounds as stated on pages 4-5 of the Office Action dated 3/1/2005. In addition, claim 31 is rejected by the Examiner on similar grounds as stated on page 7 of the Office Action dated 3/1/2005.

Regardless of whether the Examiner's assertions as to obviousness were correct, Applicants traverse the rejection in view of amended claim 1. In particular, in establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Applicants respectfully assert that the combination of Greene and Truchon or Albers does not teach or suggest at least one of the amended claim limitations.

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First, the combination of Greene and Truchon or Albers does not teach the limitations of: responsive to detecting a call originated by a caller to a destination line, accessing a caller profile for said caller, wherein said caller profile specifies a limit for automatic acceptance of a tariff payment request for said call or responsive to said caller limit for automatic acceptance exceeding or matching said tariff, automatically initiating negotiation of payment of said tariff. In particular, neither Greene, Truchon, nor Albers teach a caller profile that includes a limit for automatic acceptance of a tariff payment or in which a tariff is automatically accepted if the tariff cost does not exceed the automatic acceptance limit. The specification of the present invention describes a caller profile with a limit for automatic acceptance of a tariff payment and automatic acceptance of a tariff that does not exceed the limit on page 38, line 29 through page 39, line 14.

Second, the combination of Greene and Truchon or Albers does not teach the limitations of: responsive to detecting a callee answer said call at said destination line, accessing a callee profile for said callee, wherein said callee profile designates a first cost for access to said callee during a current time period and a second cost for access by said caller to said callee or initiating a request to bill said caller a tariff for said call, wherein said tariff is calculated from said first cost and said second cost in said callee profile. In particular, neither Greene, Truchon, nor Albers teach a callee profile that specifies the cost of a call. The specification of the present invention describes a callee profile that specifies costs for the tariff according to a current time period and according to caller on page 11, line 28 through page 12, line 5.

In conclusion, because the combination of Greene and Truchon or Albers does not teach or suggest at least one element of claim 1, claim 1 is not obvious in view of this combination of references and Applicants respectfully request allowance of claim 1. In addition, because claim 1 is not obvious in view of the combination of Greene and Truchon or Albers, claims 16 and 31, which are amended to reflect the amendments in claim 1, are also not obvious in view of the combination and Applicants respectfully request allowance of claims 16 and 31.

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**Claims 2-15 are not obvious under Greene in view of Truchon or Albers**

Claims 2-15 are dependent claims of independent claim 1, which should be allowed. Thus, Applicants respectfully request allowance of claims 2-15 as dependent claims of an allowable independent claim. In addition, Applicants note that for separate reasons, claims 2, 3, 4, 13, 14, and 15 are not obvious and should be allowed.

**Claim 2**

Claim 2 currently reads:

2.(Currently Amended) The method for billing for a call according to claim 1, further comprising:

authenticating an actual identity of a callee answering a call at said destination line; [and]

prompting said caller to accept payment of said tariff to communicate with said callee identified by said authenticated actual identity, wherein said caller is able to determine prior to accepting payment of said tariff with whom said caller is paying to communicate [of said callee].

The Examiner rejected claim 2 on the following grounds:

Regarding the authentication limitations of claim 2, Truchon et al (see Figures 2-4c, Col. 6, lines 59-68) or Albers (Figure 7, Col. 5, lines 55-65) show a billing authentication process for telephone voice transactions which is a functional equivalent of the claim limitations. [Office Action dated 3/1/05, p. 3]

In applying 35 U.S.C. 103, the test is whether the claimed invention, when considered as a whole would have been obvious. *See, e.g. Jones v. Hardy*, 200 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984). Thus, it is impermissible to focus either on the “gist” or “core” of the invention (*Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986), *cert. denied*, 484 U.S. 823 (1987)).

In the rejection of claim 2, the Examiner summarizes the elements of claim 2 as “authentication limitations” and “a billing authentication process for telephone voice transactions”. Applicants assert that the Examiner’s summarization of claim 2 as “authentication limitations” is improper. Applicants assert that when the invention is viewed as a whole,

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authenticating the identity of the callee answering the call and prompting the caller with the authenticated identity of the callee allows the caller to determine to whom the caller will actually speak with after paying the tariff. Thus, Applicants respectfully assert that distilling the invention down to "authentication limitations" or "a billing authentication process for telephone voice transactions" disregards the problem of how to let the caller know the actual identity of the callee before the caller pays to speak with the callee. Therefore, Applicants respectfully assert that the Examiner does not show how, when considered as a whole, the claimed invention would have been obvious, and Applicants respectfully request allowance of claim 2.

In addition, in applying 35 U.S.C. 103, in establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991).

In the rejection of claim 2, the Examiner asserts that that Truchon and Albers teach a "billing authentication process for telephone voice transactions which is a functional equivalent of the claim limitations." Applicants assert that even if Truchon or Albers teaches "a billing authentication process for telephone voice transactions", this teaching is not a functional equivalent of the claim limitations. In particular, claim 2 teaches authenticating the identity of the callee, not just identifying the subscriber information for a callee telephony device. In contrast, neither Truchon nor Albers teach authentication of the actual identity of a caller, but if anything focus on subscriber identification as identified by a line number. Truchon, when viewed as a whole does not teach individual callee identity authentication or passing that identity information to the caller, but determination of whether a particular mobile terminal subscriber is authorized to use a particular telecommunications network, where a mobile subscriber originally subscribes to a home network, but can also visit other networks. *Truchon*, see col. 6, line 59 through col. 7, line 9. Albers, when viewed as a whole does not teach individual callee identity authentication or passing that identity information to the caller, but authentication of "subscriber information". *Albers*, Col. 5, lines 55-65. Thus, Truchon and Albers merely focus on telephone subscriber information; the present invention teaches both authenticating an actual identity of a callee and passing that information to the caller. Therefore, because the Examiner does not show

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how at least one element of claim 2 is taught, prima facie obviousness is not established and Applicants respectfully request allowance of claim 2.

Further, Applicants note that claim 2 is further amended, for purposes of clarification that neither Albers nor Truchon teach the elements of claim 2. In particular, claim 2 is amended to clarify that it is the actual identity of the callee, and not just a subscriber identity, that is determined and authenticated. Further, the claim 2 is amended to clarify, as is supported in the specification page 10, lines 18-22 and page 37, lines 7-11, that the callee identity is passed to the caller so that the caller can determine who the caller will speak with upon payment of the tariff.

### Claim 3

Claim 3 currently reads:

3.(Currently Amended) The method for billing for a call according to claim 1, further comprising:

authenticating an actual identity of said caller; and  
loading a billing profile for said authenticated actual identity of said caller, wherein said billing profile specifies an account ~~for negotiating~~ from which said payment of said tariff is to be negotiated.

The Examiner rejected claim 3 on the following grounds:

Regarding the authentication limitations of claim 3, Truchon et al (see Figures 2-4c, Col. 6, lines 59-68) or Albers (Figure 7, Col. 5, lines 55-65) show a billing authentication process for telephone voice transactions which is a functional equivalent of the claim limitations. [Office Action dated 3/1/05, p. 3]

In applying 35 U.S.C. 103, the test is whether the claimed invention, when considered as a whole would have been obvious. *See, e.g. Jones v. Hardy*, 200 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984). Thus, it is impermissible to focus either on the “gist” or “core” of the invention (*Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986), *cert. denied*, 484 U.S. 823 (1987)). In the rejection of claim 3, the Examiner summarizes the elements of claim 3 as “authentication limitations” and “a billing authentication process for telephone voice transactions.” Applicants assert that the Examiner’s summarization of claim 3 as “authentication limitations” or “a billing authentication process for telephone voice transactions”

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is improper. Applicants assert that when the invention is viewed as a whole, authenticating the identity of the caller answering the call and retrieving a billing profile for that caller that specifies the account from which a tariff payment should be negotiated allows the billing system to negotiate payment from a particular account designated by the actual caller, and not just the telephone subscriber account. Thus, Applicants respectfully assert that distilling the invention down to "authentication limitations" or "a billing authentication process for telephone voice transactions" disregards the problem of how to charge an account selected by the actual person calling, rather than just charging a subscriber account. Therefore, Applicants respectfully assert that the Examiner does not show how, when considered as a whole, the claimed invention would have been obvious, and Applicants respectfully request allowance of claim 3.

In addition, in applying 35 U.S.C. 103, in establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991).

In the rejection of claim 3, the Examiner asserts that that Truchon and Albers teach a "billing authentication process for telephone voice transactions which is a functional equivalent of the claim limitations." As Applicants asserted responsive to the rejection of claim 2, Applicants assert that even if Truchon or Albers teaches "a billing authentication process for telephone voice transactions", this teaching is not a functional equivalent of the claim limitations. In particular, claim 3 teaches authenticating the identity of the caller, not just identifying the subscriber information for a callee telephony device. In contrast, neither Truchon nor Albers teach authentication of the actual identity of a caller, but focus on subscriber identification as identified by a line number. Truchon, when viewed as a whole does not teach individual caller identity authentication or accessing an account associated with the actual caller, but determination of whether a particular mobile terminal subscriber is authorized to use a particular telecommunications network, where a mobile subscriber originally subscribes to a home network, but can also visit other networks. *Truchon*, see col. 6, line 59 through col. 7, line 9. Albers, when viewed as a whole does not teach individual callee identity authentication or passing that identity information to the caller, but authentication of "subscriber information".

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*Albers*, Col. 5, lines 55-65. Thus, Truchon and Albers merely focus on telephone device subscriber information; the present invention both teaches authenticating an actual identity of a caller and accessing a caller profile for the actual caller, where the caller profile selects the account from which a tariff payment is to be negotiated. Therefore, because the Examiner does not show how at least one element of claim 3 is taught, prima facie obviousness is not established and Applicants respectfully request allowance of claim 3.

Further, Applicants note that claim 3 is further amended, for purposes of clarification that neither Albers nor Truchon teach the elements of claim 3. In particular, claim 3 is amended to clarify that it is the actual identity of the caller, and not just a subscriber identity, that is determined and authenticated. Further, claim 3 is amended to clarify that the account specified in the caller billing profile is the account from which the tariff payment should be negotiated.

#### Claim 4

Claim 4 currently reads:

4.(Previously Presented) The method for billing for a call according to claim 1, wherein said request to bill a caller is initiated in response to a tariff offer in a caller profile.

The Examiner rejects claim 4 under the following grounds:

Regarding the billing limitations of claim 4, Greene (See Figs 1-3, col. 2, lines 1-25, 50-65, col. 3, lines 50-64, claims 1-7) disclose billing a call by advising the calling party pay a surcharge to the called party such that the caller pays for access which is a functional equivalent of the claim limitations. [Office Action dated 3/1/05, p. 3]

In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Applicants respectfully assert that the combined prior art references, and in particular Greene, do not teach or suggest the limitations of claim 4, and therefore claim 4 should be allowed. In particular, applicants note that the Examiner cites the Greene's teaching of "billing a call by advising the calling party pay a surcharge to the called

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party such that the caller pays for access” as a functional equivalent of the claim limitation of wherein said request to bill a caller is initiated in response to a tariff offer in a caller profile.

[Office Action dated 3/1/05, p. 3] Greene, however, only shows that a caller is advised of a surcharge after the caller’s number is identified by a billing system as one that requires payment for access to the destination line. *Greene*, Figures 1-3. Nowhere does *Greene* describe a caller profile, a caller profile including a tariff offer, or that a billing system initiates the request to bill the caller for the tariff responsive to the tariff offer in the caller’s profile. In contrast, the present invention teaches that the request to bill the caller a tariff “is initiated in response to a tariff offer in a caller profile.” Therefore, because the Examiner does not establish that *Greene* teaches at least one of the limitations of claim 4, Applicants respectfully request allowance of claim 4.

#### Claims 13-15

Claims 13-15 currently read:

13.(Currently Amended) The method for billing for a call according to claim 1, further comprising:

only completing payment of said tariff if said callee performs to meet at least one condition of said tariff in addition to answering said call [is met].

14.(Currently Amended) The method for billing for a call according to claim 1, further comprising:

initiating said request to bill said caller negotiating a payment of [a] said tariff, responsive to said callee entering a command to forward for forwarding said call to an alternate destination device.

15.(Original) The method for billing for a call according to claim 1, further comprising:

refunding at least a portion of said tariff to said caller.

The Examiner rejects claims 13-15 on the following grounds:

Regarding the tariffing limitations of claims 13-15, *Greene* (See Figs 1-3, col. 2, lines 1-25, 50-65, col. 3, lines 50-64, claims 1-7) disclose billing a call by

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advising the calling party pay a surcharge to the called party such that the caller pays for access which is a functional equivalent of the claim limitations. [Office Action dated 3/1/05, p. 4]

In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Applicants respectfully assert that the Examiner does not point out how Greene as combined with the other prior art references, teaches or suggests all the claim limitations of claims 13, 14, and 15, and therefore respectfully request allowance of claims 13, 14, and 15.

First, with regard to claim 13, Applicants respectfully assert that Greene's description of advising the calling party to pay a surcharge for access does not teach only completing payment of said tariff if said callee performs to meet at least one condition of said tariff in addition to answering said call. Greene discloses advising the caller to pay the tariff or hang up. Greene does not teach conditioning the completion of payment of the tariff on callee performance or callee performance of a conditional requirement. In contrast, as amended, claim 13 clarifies that payment of the tariff is only completed "if said callee performs to meet at least one condition of said tariff in addition to answering said call." The specification supports this clarification at page 12, lines 16-18 and page 36, lines 8-10, in addition to other teachings in the specification. Therefore, because Greene does not teach at least one element of claim 13, claim 13 is not obvious under Greene in combination with Truchon or Albers and claim 13 should be allowed.

Second, with regard to claims 14, Applicants respectfully assert that Greene's description of advising the calling party to pay a surcharge for access does not teach initiating said request to bill said caller said tariff, responsive to the callee entering a command to forward the call to an alternate destination device. Greene teaches advising the calling party to pay a surcharge for access; advising a party to pay a surcharge for access does not teach initiating the surcharge requirement responsive to detecting a callee command to forward the call to an alternate destination device. Applicants amend claim 14 to clarify that the request to bill a tariff to the caller is initiated responsive to the callee command to forward the call to another destination device; the specification also provides clarification on page 41, line 29 through page 42, line 11.

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Therefore, because Greene does not teach initiating the tariff charge responsive to a callee command to forward a call, Greene does not teach at least one element of claim 14, claim 14 is not obvious under Greene in combination with Truchon or Albers and the claim 14 should be allowed.

Third, with regard to claim 15, Applicants respectfully assert that Greene's description of advising the calling party to pay a surcharge for access does not teach refunding at least a portion of the tariff to the caller. Greene teaches providing the callee the opportunity to void the surcharge requirement, prior to payment. Greene does not teach refunding a portion of a surcharge that has already been paid. In contrast, claim 15 teaches refunding at least a portion of the tariff to the caller. Therefore, because Greene does not teach refunding already paid charges, Greene does not teach at least one element of claim 15, claim 15 is not obvious under Greene in combination with Truchon or Albers and the claim 15 should be allowed.

**Claims 17-30 are not obvious under Greene in view of Truchon or Albers**

Claims 17-30 are closely parallel in elements and rejections to claim 2-15, respectively. Claims 17-30 are dependent claims of claim 16, an independent claim presented for allowance. Thus, Applicants respectfully request allowance of these dependent claims on the basis of dependence on an allowable independent claim.

In addition, Applicants note that claims 17, 18, 19, 28, 29, and 30 are similar in elements to claims 2, 3, 4, 13, 14, and 15, and request allowance of claims 17, 18, 19, 28, 29, and 30 for the same separate reasons as asserted by Applicants for allowance of claims 2, 3, 4, 13, 14, and 15.

**Claims 32-37 are not obvious under Greene in view of Truchon or Albers**

Claims 32-37 are closely parallel in elements and rejections to claim 2-3, 9, and 13-15, respectively. Claims 32-37 are dependent claims of claim 31, an independent claim presented for allowance. Thus, Applicants respectfully request allowance of these dependent claims on the basis of dependence on an allowable independent claim.

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In addition, Applicants note that claims 32, 33, 35, 36, and 37 are similar in elements to claims 2, 3, 13, 14, and 15, and request allowance of claims 32, 33, 35, 36, and 37 for the same separate reasons as asserted by Applicants for allowance of claims 2, 3, 13, 14, and 15.

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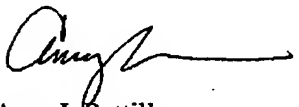
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*Conclusion*

Applicants note the citation of pertinent prior art cited by the Examiner.

In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims is respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment. Further, Applicants reiterate the request for a telephone conference with the Examiner at the Examiner's earliest convenience.

Respectfully submitted,

 on 5/26/05

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